

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6162

BILL NUMBER: HB 1154

NOTE PREPARED: Feb 19, 2004

BILL AMENDED:

SUBJECT: Inheritance Tax.

FIRST AUTHOR: Rep. Leonard

FIRST SPONSOR: Sen. Long

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill provides, for purposes of the Inheritance Tax, that a stepchild of the transferor is a Class A transferee.

Effective Date: July 1, 2004.

Explanation of State Expenditures: The bill could potentially increase expenditures from the state General Fund for county Inheritance Tax replacement. The extent of this impact is unknown. The General Fund impact could arise if the changes in the bill reduce county Inheritance Tax revenue below current law guarantee levels. Thus, the impact on the state General Fund may not equal the revenue loss to the counties since most are retaining more revenue than is guaranteed under the replacement procedure. Since the Inheritance Tax does not have to be paid until a maximum of 12 months after the decedent's death (within 9 months of the date of death to receive the 5% early payment discount), the impact that the bill may have on county replacement is not expected to begin until FY 2006. (See Explanation of Local Revenues, below, for further explanation of the replacement procedure.)

Explanation of State Revenues: The bill would reduce the Inheritance Tax liabilities of stepchildren as it would increase the allowable exemption for such transferees from \$100 to \$100,000. The revenue loss due to this bill is unknown but could potentially begin in FY 2006.

Background: Current law treats as lineal descendants or Class A transferees under the Inheritance Tax both (1) legally adopted children and (2) children who have been part of a *loco parentis* relationship for at least 10 years where the relationship began before the child's 15th birthday. The bill expands the definition of lineal descendants to include all stepchildren. Thus, the individuals affected by this bill would be classified as Class A transferees rather than Class C transferees for purposes of the standard Inheritance Tax exemption.

The amount of the exemption for Class A transferees is \$100,000 while the amount of the exemption for Class C transferees is \$100. Since the Inheritance Tax does not have to be paid until a maximum of 12 months after the decedent's death (within 9 months of the date of death to receive the 5% early payment discount), the impact that the bill may have on Inheritance Tax revenue is not expected to begin until FY 2006. Inheritance Tax collections totaled approximately \$180.4 M in FY 2003. The nonresident Inheritance Tax and 92% of the resident Inheritance Tax is deposited in the state General Fund. Thus, the state share of FY 2003 collections was approximately \$165.7 M.

Explanation of Local Expenditures:

Explanation of Local Revenues: The bill could potentially reduce Inheritance Tax revenue to the counties. The revenue loss due to this bill is unknown but could potentially begin in FY 2006. Currently, counties retain 8% of the Inheritance Tax collected on transfers made by Indiana residents. It is important to note that a reduction in the amount of Inheritance Tax retained by counties due to the bill may be reimbursed by the state under the replacement provision established by P.L. 254-1997. The replacement provision was established when the Class A exemption was increased on July 1, 1997. The replacement provision guarantees that in each fiscal year each county receives an amount under the Inheritance Tax that is equal to the five-year annual average amount of Inheritance Tax revenue retained by that county from FY 1991 to FY 1997, excluding the highest and lowest year. The maximum amount of county replacement for any year is approximately \$7.5 M. A copy of a spreadsheet showing the amount of Inheritance Tax replacement guaranteed to each county under P.L. 254-1997 is available from the Office of Fiscal and Management Analysis.

State Agencies Affected: Department of State Revenue.

Local Agencies Affected: Counties.

Information Sources:

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